ARC 8430B

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)*"b."*

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 39, "Filing Return and Payment of Tax," Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 46, "Withholding," Chapter 48, "Composite Returns," Chapter 52, "Filing Returns, Payment of Tax and Penalty and Interest," Chapter 53, "Determination of Net Income," Chapter 58, "Filing Returns, Payment of Tax, Penalty and Interest, and Allocation of Tax Revenues," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

These amendments are proposed as a result of 2009 Iowa Acts, House File 817, and 2009 Iowa Acts, Senate Files 253, 344, 456, 470, 471, 478, 480, 481 and 483.

The proposed rule making:

• Amends rule 701—39.12(422) to allow additional time for certain military personnel deployed outside the United States to file Iowa returns and perform other acts related to the Department of Revenue.

• Amends rule 701—40.43(422) to remove an obsolete provision and provide clarification regarding an exclusion from Iowa individual income tax for payments received by individuals providing unskilled in-home health care to members of a caregiver's family.

• Amends subrule 40.60(3) to provide that the 50 percent bonus depreciation for assets acquired after December 31, 2007, but before January 1, 2010, does not apply for Iowa individual income tax.

• Adopts new subrule 40.60(4) to provide that the 50 percent bonus depreciation for qualified disaster assistance property does not apply for Iowa individual income tax.

• Amends rule 701—40.70(422) to provide that the exclusion of income for individual income tax for qualified expenditures related to a film project registered with the Iowa film office on or after July 1, 2009, must be excluded over a four-year period.

• Amends subrule 41.3(2) to provide that the federal refund received due to the first-time homebuyer credit does not have to be reported on the Iowa individual income tax return.

• Adopts new subrule 41.3(8) to provide that the federal rebate received by individuals in 2009 does have to be included as part of an individual's federal income tax refund for Iowa individual income tax purposes.

• Adopts new subrule 41.5(16) to provide that the charitable contribution for which an endow Iowa tax credit was claimed is not allowed as an itemized deduction for Iowa individual income tax for years beginning on or after January 1, 2010.

• Amends subrule 46.1(2) to clarify the treatment of withholding tax for sick pay benefits.

• Amends subrule 46.3(3) to clarify that amended returns must be filed to claim a refund for Iowa withholding tax if tax was paid which was not due.

• Amends rule 701—48.5(422) to provide that composite returns for Iowa individual income tax may be allowed for nonresidents other than nonresident partners, members, beneficiaries or shareholders in partnerships, limited liability companies, trusts or S corporations.

• Amends subrules 52.7(3) and 52.7(5) to include federal revisions made in 2008 to the research activities credit for corporation income tax and adopts new subrule 52.7(6) to provide for an annual report of certain research activities credit claims, which report is due by February 15 of each year.

• Amends rule 701—52.12(422) to update the sequence of deducting tax credits for corporation income tax.

• Amends subrule 52.14(3) to provide for additional research activities credit for companies eligible under the enterprise zone program for expenses related to the development and deployment of innovative renewable energy generation.

• Amends rule 701—52.18(422) to provide for changes to the historic preservation and cultural and entertainment district tax credit for corporation income tax.

• Amends rule 701—52.23(15E) to provide for changes to the endow Iowa tax credit for corporation income tax.

• Amends rule 701—52.26(422,476B) to provide for changes to the wind energy production tax credit for corporation income tax.

• Amends rule 701—52.27(422,476C) to provide for changes to the renewable energy tax credit for corporation income tax.

• Amends rule 701—52.28(15) to provide, for corporation income tax, that the high quality job creation program has been replaced by the high quality jobs program effective July 1, 2009.

• Amends rule 701—52.33(175,422) to provide for a cap for the agricultural assets transfer tax credit effective with the fiscal year beginning July 1, 2009.

• Amends rule 701—52.34(15,422) to provide for changes to the film qualified expenditure tax credit for corporation income tax.

• Amends rule 701—52.35(15,422) to provide for changes to the film investment tax credit for corporation income tax.

• Amends 701—Chapter 52 by adopting new corporation income tax rules 701—52.38(422) for the school tuition organization tax credit, 701—52.39(15,422) for the redevelopment tax credit, 701—52.40(15) for credits related to the high quality jobs program, and 701—52.41(15) for the aggregate tax credit limit on certain economic development program tax credits.

• Amends rules 701—53.2(422), 701—53.4(422), and 701—53.15(422) to provide that any Iowa net operating loss for corporation income tax is no longer allowed to be carried back for tax years beginning on or after January 1, 2009.

• Amends subrule 53.22(3) to provide that the 50 percent bonus depreciation for assets acquired after December 31, 2007, but before January 1, 2010, does not apply for Iowa corporation income tax.

• Adopts new subrule 53.22(4) to provide that the 50 percent bonus depreciation for qualified disaster assistance property does not apply for Iowa corporation income tax.

• Amends rule 701—53.25(422) to provide that the exclusion of income for corporation income tax for qualified expenditures related to a film project registered with the Iowa film office on or after July 1, 2009, must be excluded over a four-year period.

• Amends rule 701—58.13(15E) to provide for changes to the endow Iowa tax credit for franchise tax.

• Amends rule 701—58.17(15) to provide, for franchise tax, that the high quality job creation program has been replaced by the high quality jobs program effective July 1, 2009.

• Adopts new rule 701—58.21(15) relating to tax credits for the high quality jobs program for franchise tax.

• Amends rules 701—59.2(422) and 701—59.4(422) to provide that any Iowa net operating loss for franchise tax is no longer allowed to be carried back for tax years beginning on or after January 1, 2009.

• Adopts new subrule 59.23(3) providing for the disallowance of 50 percent bonus depreciation for assets acquired after December 31, 2008, but before January 1, 2010, and subrule 59.23(4) relating to the disallowance of 50 percent bonus depreciation for qualified disaster assistance property for Iowa franchise tax.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that these proposed amendments may have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The

Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than February 1, 2010, to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before January 19, 2010. Such written comments should be directed to the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Taxpayer Services and Policy Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by January 22, 2010.

These amendments are intended to implement Iowa Code section 15.335 as amended by 2009 Iowa Acts, House File 817 and Senate File 478; Iowa Code section 422.21 as amended by 2009 Iowa Acts, Senate File 253; Iowa Code sections 15.329 and 15.335A as amended by 2009 Iowa Acts, Senate File 344; Iowa Code sections 476B.4 and 476C.3 as amended by 2009 Iowa Acts, Senate File 456; Iowa Code section 422.33 as amended by 2009 Iowa Acts, Senate File 470 and Senate File 478; Iowa Code section 469.10 as amended by 2009 Iowa Acts, Senate File 471; Iowa Code sections 15A.9, 15E.305 and 422.10 as amended by 2009 Iowa Acts, Senate File 478; Iowa Code section 15.393 as amended by 2009 Iowa Acts, Senate File 480; Iowa Code section 404A.4 as amended by 2009 Iowa Acts, Senate File 481; and Iowa Code sections 15.119, 175.37 and 422.35 as amended by 2009 Iowa Acts, Senate File 483.

The following amendments are proposed.

ITEM 1. Amend rule 701—39.12(422) as follows:

701—39.12(422) Tax benefits for persons in the armed forces ~~serving in a combat zone or a qualified hazardous duty area or~~ deployed outside the United States ~~in a contingency operation~~.

39.12(1) For tax years ending after August 2, 1990, a number of state tax benefits are authorized for persons in the armed forces who serve in an area designated by the President and the Congress as a combat zone. Similar state tax benefits are also authorized for persons who serve in an area designated by the President and the Congress as a qualified hazardous duty area for tax years beginning on or after January 1, 1999. In addition, uniform state tax benefits are authorized for persons in the armed forces of the United States who were deployed outside the United States in an operation designated by the Secretary of Defense as a contingency operation as defined in 10 U.S.C. § 101(a)(13), or which became a contingency operation by the operation of law. Persons who were deployed in a contingency operation who ceased to participate in such operation on or after May 21, 2003, are considered to be eligible individuals for purposes of being granted additional time to perform certain acts with the department to the extent the period for performing an act did not expire prior to May 21, 2003, or a later date if the person ceased to participate in the contingency operation on a date after May 21, 2003. Those persons who were serving in support of the armed forces personnel in a combat zone or those persons who were serving in support of armed forces personnel in a qualified hazardous duty area are also eligible for the state tax benefits. The eligible individuals are given the same additional time period to file state income tax returns and perform other acts related to the department of revenue as would constitute timely filing of returns or timely performance of other acts as described in Section 7508(a) of the Internal Revenue Code. "Other acts related to the department of revenue" includes filing claims for refund for any type of tax administered by the department, making tax payments other than withholding payments, filing appeals on tax matters, filing returns for taxes other than income tax, and performing other acts such as making timely contributions to individual retirement accounts. The additional time period for filing returns and performing other acts applies to the spouse of the person who was in the combat zone or the qualified hazardous duty area or the spouse of a person who was serving in support of persons in the combat zone or the hazardous duty area to the extent the spouse files jointly or separately on the combined return with

the person who was in the combat zone or the hazardous duty area, or when the spouse is a party with the person who was serving in support of persons in the combat zone or hazardous duty area to any tax matter with the department for which the additional time period is allowed. The additional time period for filing state returns and performing other acts is 180 days after the person leaves the combat zone or hazardous duty area or ceases to participate in the contingency operation which is the same time period as allowed in federal income tax law. However, a person who was hospitalized because of illness or injury in the combat zone or the hazardous duty area has up to five years to file returns or perform certain acts with this department after leaving the combat zone or hazardous duty area.

39.12(2) For tax years beginning on or after January 1, 1995, certain persons performing peacekeeping duties in a location designated by Congress as a qualified hazardous duty area or other individuals performing military duties overseas in support of the persons in the hazardous duty area are eligible for the tax benefits described above. See rule 701—39.14(422) for additional information on the Bosnia-Herzegovina hazardous duty area.

39.12(3) For tax years beginning on or after January 1, 2008, the additional time to file returns and perform other acts related to the department of revenue described in subrule 39.12(1) is available to all active duty military service members in the armed forces, all armed forces military reservists, and all national guard personnel who are deployed outside the United States. These armed forces, armed forces reserve and national guard personnel are not required to be deployed outside the United States in a combat zone, qualified hazardous duty area, or contingency operation to be allowed the additional time to file Iowa returns and perform other acts related to the department of revenue.

This rule is intended to implement Iowa Code sections 422.3 and 422.21 as amended by ~~2003~~ 2009 Iowa Acts, ~~House~~ Senate File ~~674~~ 253.

ITEM 2. Amend rule 701—40.43(422) as follows:

701—40.43(422) Retroactive exemption for payments received for providing unskilled in-home health care services to a relative. Retroactive to January 1, 1988, for tax years beginning on or after that date, supplemental assistance payments authorized under Iowa Code section 249.3(2)*"a"*(2) which are received by an individual providing unskilled in-home health care services to a member of the caregiver's family are exempt from state income tax to the extent that the individual caregiver is not a licensed health care professional designated in Iowa Code section 147.13, subsections 1 to 10.

For purposes of this exemption, a member of the caregiver's family includes a spouse, parent, stepparent, child, stepchild, brother, stepbrother, sister, stepsister, lineal ancestor such as grandparent and great-grandparent, and lineal descendant such as grandchild and great-grandchild, and those previously described relatives who are related by marriage or adoption. Those licensed health care professionals who are not eligible for this exemption include medical doctors, doctors of osteopathy, physician assistants, psychologists, podiatrists, chiropractors, physical therapists, occupational therapists, nurses, dentists, dental hygienists, optometrists, speech pathologists, audiologists, and other similar licensed health care professionals.

~~Taxpayers who paid state income tax on the supplemental assistance payments on individual income tax returns for tax years beginning in the 1988 calendar year and who are eligible for the exemption may claim refunds of state income tax paid on the assistance payments, if the refund claims are filed with the department of revenue on or before April 30, 1993.~~

This rule is intended to implement Iowa Code section 422.7.

ITEM 3. Amend subrule 40.60(3) as follows:

40.60(3) *Assets acquired after December 31, 2007, but before January 1, ~~2009~~ 2010.* For tax periods beginning after December 31, 2007, but beginning before January 1, ~~2009~~ 2010, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 110-185, Section 103, and Public Law 111-5, Section 1201, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, ~~2009~~ 2010, and subtract the amount of depreciation taken on such property using the

modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, ~~2009~~ 2010, can be calculated on Form IA 4562A.

See rule 701—53.22(422) for examples illustrating how this rule is applied.

ITEM 4. Adopt the following **new** subrule 40.60(4):

40.60(4) *Qualified disaster assistance property.* For property placed in service after December 31, 2007, with respect to federal declared disasters occurring before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(n) of the Internal Revenue Code for qualified disaster assistance property, as amended by Public Law 110-343, Section 710, does not apply for Iowa individual income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on qualified disaster assistance property and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(n).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of this property for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of such property.

The adjustment for both depreciation and the gain or loss on the sale of qualifying disaster assistance property can be calculated on Form IA 4562A.

ITEM 5. Amend rule 701—40.70(422) as follows:

701—40.70(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television or video projects.

40.70(1) *Projects registered on or after January 1, 2007, but before July 1, 2009.* For tax years beginning on or after January 1, 2007, a taxpayer who is a resident of Iowa may exclude, to the extent included in federal adjusted gross income, income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development.

Income which can be excluded on the Iowa return must meet the criteria of a qualified expenditure for purposes of the film qualified expenditure tax credit as set forth in rule 701—42.35(15,422). See rule 701—38.17(422) for the determination of Iowa residency.

However, if a taxpayer claims this income tax exclusion, the same taxpayer cannot also claim the film qualified expenditure tax credit as described in rule 701—42.35(15,422). In addition, any taxpayer who claims this income tax exclusion cannot have an equity interest in a business which received a film qualified expenditure tax credit. Finally, any taxpayer who claims this income tax exclusion cannot participate in the management of the business which received the film qualified expenditure tax credit.

EXAMPLE: A production company which registers with the film office for a project is a limited liability company with three members, all of whom are Iowa residents. If any of the three members receives income that is a qualified expenditure for purposes of the film qualified expenditure tax credit, such member(s) cannot exclude this income on the Iowa income tax return because the member(s) has an equity interest in the business which received the credit.

40.70(2) *Projects registered on or after July 1, 2009.* For tax years beginning on or after July 1, 2009, a taxpayer who is a resident of Iowa may exclude no more than 25 percent of the income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of

economic development in the year in which the qualified expenditure occurred. A reduction of 25 percent of the income is allowed to be excluded for the three subsequent tax years.

EXAMPLE: An Iowa taxpayer received $10,000 in income in the 2010 tax year related to qualified film expenditures for a project registered on February 1, 2010. The $10,000 was reported as income on taxpayer's 2010 federal tax return. Taxpayer may exclude $2,500 of income on the Iowa individual income tax return for each of the tax years 2010-2013.

This rule is intended to implement Iowa Code section ~~422.7~~ 15.393 as amended by ~~2007~~ 2009 Iowa Acts, ~~House~~ Senate File ~~892~~ 480, section 4 5, and Iowa Code section 422.7.

ITEM 6. Adopt the following **new** paragraph **41.3(2)"c"**:

c. Any portion of the federal refund received due to the first-time homebuyer credit computed under Section 36 of the Internal Revenue Code does not have to be reported on the Iowa return. Similarly, any recapture of the credit under Section 36(f) of the Internal Revenue Code is not allowed as a deduction for federal taxes paid.

EXAMPLE: Individual A filed a 2008 federal income tax return reporting a tax liability of $1,000. Individual A had $1,200 of federal tax withheld and $7,500 of first-time homebuyer credit and received a federal income tax refund of $7,700 after filing the return in 2009. Individual A must report a $200 federal refund on the Iowa return for 2009, since the portion of the federal refund relating to the first-time homebuyer credit does not have to be reported. The $500 of federal taxes that will be recaptured and paid for each year on the federal income tax return for 2009-2023 in accordance with Section 36(f) of the Internal Revenue Code will not be allowed as a deduction on the Iowa return for federal taxes paid.

ITEM 7. Adopt the following **new** subrule 41.3(8):

41.3(8) *Federal rate reduction credit and the federal income tax deduction for the 2009 tax year.* For tax years beginning in the 2009 calendar year, the tax reduction credit or the advanced refund of federal income tax provided to certain individuals pursuant to the federal Economic Stimulus Act of 2008 is to be included as part of an individual's federal income tax refund for Iowa individual income tax purposes. The tax reduction credit was also referred to as the federal rebate when it was refunded to some taxpayers during the 2008 calendar year. This subrule does not apply to those taxpayers who received the federal rebate in the 2008 calendar year.

EXAMPLE: When Fred and Barbara Jones completed their 2008 federal income tax return, they received the benefit of a rate reduction credit of $1,200, which resulted in the Browns' receiving a federal income tax refund of $1,300 in May 2009. Fred and Barbara need to report the entire $1,300 refund of federal income tax when they complete their Iowa income tax return for 2009.

ITEM 8. Adopt the following **new** subrule 41.5(16):

41.5(16) Charitable contributions relating to the endow Iowa tax credit. For tax years beginning on or after January 1, 2010, a taxpayer who claims an endow Iowa tax credit in accordance with rule 701—42.30(422) cannot claim an itemized deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes.

ITEM 9. Amend paragraph **46.1(2)"c,"** first unnumbered paragraph, as follows:

In the case of state income tax withholding for sick pay benefits paid by third-party payers in accordance with Section 3402(o)(1) of the Internal Revenue Code, state income tax is to be withheld from the benefits by the payer only if state income tax withholding is requested by the payee of the benefits. However, payees of sick pay benefits should probably not request withholding from the benefits if the payees are eligible for the disability income exclusion authorized in Iowa Code section 422.7 and described in rule 701—40.22(422). If withholding is requested by the payee, the withholding should be done at a 5 percent rate on the sick pay benefits. However, no withholding of state income tax should be made if the benefit payment is less than $250. Once withholding is started, it should continue until such time as the payee requests that no state income tax be withheld. For sick pay benefits not paid by third-party payers, state income tax is required to be withheld since federal income tax is required to be withheld.

ITEM 10. Amend subparagraph **46.3(3)"h"(2)** as follows:

(2) Overpayment. If an employer remits more than the correct amount of tax for a return period, the employer must file an amended withholding tax return and ~~report the correct amount~~ request a refund of the withholding tax paid which was not due.

ITEM 11. Amend rule 701—48.5(422) as follows:

701—48.5(422) Composite return required by director. The director may in accordance with rule 701—48.3(422) require the filing of a composite return under the following conditions.

~~1.~~ **48.5(1)** The director may require the filing of a composite return if the nonresident partners, shareholders, or beneficiaries do not file individual income tax returns and pay the tax due.

~~2.~~ **48.5(2)** Where some of the nonresident partners, shareholders, or beneficiaries file individual income tax returns and pay the tax due, but other nonresident partners, shareholders, or beneficiaries do not file individual returns, the director may require a composite return which includes the Iowa taxable income of those nonresident partners, shareholders, or beneficiaries who did not file individual returns.

48.5(3) For tax years beginning on or after January 1, 2010, if it is determined that it is necessary for the efficient administration of Iowa individual income tax, the director may require the filing of a composite return for nonresidents other than nonresident partners, members, beneficiaries or shareholders in partnerships, limited liability companies, trusts or S corporations.

For example, the director may require a composite return in situations where nonresident real estate brokers or nonresident insurance agents who are independent contractors earn commission income from the sale of real estate in Iowa or from insurance policies sold to Iowa residents.

This rule is intended to implement Iowa Code section 422.13 as amended by 2009 Iowa Acts, Senate File 478, section 132.

ITEM 12. Amend paragraph **52.7(3)"c"** as follows:

c. For purposes of this subrule, the terms "base amount," "basic research payment," and "qualified research expense" mean the same as defined for the federal credit for increasing research activities under Section 41 of the Internal Revenue Code, except that, for purposes of the alternative incremental credit described in paragraph *"b"* of this subrule, such amounts are limited to research activities conducted within this state. For purposes of this rule, "Internal Revenue Code" means the Internal Revenue Code in effect on January 1, ~~2008~~ 2009.

ITEM 13. Adopt the following **new** subrule 52.7(6):

52.7(6) *Reporting of research activities credit claims.* Beginning with research activities credit claims filed on or after July 1, 2009, the department shall issue an annual report to the general assembly of all research activities credit claims in excess of $500,000. The report, which is due by February 15 of each year, will contain the name of each claimant and the amount of the research activities credit for all claims filed during the previous calendar year in excess of $500,000.

ITEM 14. Amend rule **701—52.7(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 as amended by ~~2008~~ 2009 Iowa Acts, Senate File ~~2123~~ 478.

ITEM 15. Amend rule 701—52.12(422) as follows:

701—52.12(422) Deduction of credits. The credits against computed tax set forth in Iowa Code sections 422.33 and 422.110 shall be deducted in the following sequence.

1. Franchise tax credit.
2. ~~Venture capital credits~~ School tuition organization tax credit.
3. ~~Endow Iowa tax credit~~ Venture capital credits.
4. ~~Agricultural assets transfer tax credit~~ Endow Iowa tax credit.
5. ~~Film qualified expenditure tax credit~~ Agricultural assets transfer tax credit.
6. ~~Film investment tax credit~~ Film qualified expenditure tax credit.
7. ~~Investment tax credit~~ Film investment tax credit.

8. ~~Wind energy production tax credit~~ Redevelopment tax credit.
9. ~~Renewable energy tax credit~~ Investment tax credit.
10. ~~New jobs credit~~ Wind energy production tax credit.
11. ~~Economic development region revolving fund tax credit~~ Renewable energy tax credit.
12. ~~Charitable conservation contribution tax credit~~ New jobs credit.
13. ~~Alternative minimum tax credit~~ Economic development region revolving fund tax credit.
14. ~~Historic preservation and cultural and entertainment district tax credit~~ Charitable conservation contribution tax credit.
15. ~~Corporate tax credit for certain sales tax paid by developer~~ Alternative minimum tax credit.
16. ~~Ethanol blended gasoline tax credit or ethanol promotion tax credit~~ Historic preservation and cultural and entertainment district tax credit.
17. ~~Research activities credit~~ Corporate tax credit for certain sales tax paid by developer.
18. ~~Assistive device credit~~ Ethanol blended gasoline tax credit or ethanol promotion tax credit.
19. ~~Motor fuel credit~~ Research activities credit.
20. ~~Wage-benefits tax credit~~ Assistive device credit.
21. ~~Soy-based cutting tool oil tax credit~~ Motor fuel credit.
22. ~~Refundable portion of investment tax credit, as provided in subrule 52.10(4)~~ Wage benefits tax credit.
23. ~~E-85 gasoline promotion tax credit~~ Soy-based cutting tool oil tax credit.
24. ~~Biodiesel blended fuel tax credit~~ Refundable portion of investment tax credit, as provided in subrule 52.10(4).
25. ~~Soy-based transformer fluid tax credit~~ E-85 gasoline promotion tax credit.
26. ~~Estimated tax and payments with vouchers~~ Biodiesel blended fuel tax credit.
27. Soy-based transformer fluid tax credit.
28. Estimated tax and payments with vouchers.

This rule is intended to implement Iowa Code sections 15.333, 15.335, 422.33, 422.91 and 422.110.

ITEM 16. Amend subrule 52.14(3) as follows:

52.14(3) *Research activities credit.* An eligible business approved under the enterprise zone program is eligible for an additional research activities credit as described in subrule 52.7(5).

a. Tax years ending on or after July 1, 2005, but before July 1, 2009. For ~~tax years ending on or after July 1, 2005, for~~ eligible businesses approved under the enterprise zone program, research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity. The research activities credit related to renewable energy generation components under the enterprise zone program and the high quality job creation program described in subrule 52.28(1) shall not exceed $1 million in the aggregate.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in subrule 52.7(5) for businesses in enterprise zones and the additional research activities credit set forth in subrule 52.28(1) for businesses approved under the high quality job creation program, and are not applicable to the research activities credit set forth in subrule 52.7(3).

b. Tax years ending on or after July 1, 2009. For eligible businesses approved under the enterprise zone program, research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities.

(1) For purposes of this paragraph, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity.

(2) The research activities credit related to renewable energy generation components under the enterprise zone program and the high quality jobs program described in subrule 52.28(1) shall not exceed $2 million for the fiscal year ending June 30, 2010, and $1 million for the fiscal year ending June 30, 2011.

(3) These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in subrule 52.7(5) for businesses in enterprise zones and the additional research activities credit set forth in subrule 52.40(1) for businesses approved under the high quality jobs program, and are not applicable to the research activities credit set forth in subrule 52.7(3).

ITEM 17. Amend subrule 52.18(2) as follows:

52.18(2) *Application and review process for the historic preservation and cultural and entertainment district tax credit.*

a. Taxpayers who want to claim an income tax credit for completing a historic preservation and cultural and entertainment district project must submit an application for approval of the project. The application forms for the historic preservation and cultural and entertainment district tax credit may be requested from the State Tax Credit Program Manager, State Historic Preservation Office, Department of Cultural Affairs, 600 E. Locust, Des Moines, Iowa 50319-0290. The telephone number for this office is (515)281-4137. Applications for the credit will be accepted by the state historic preservation office on or after July 1, 2000, until such time as all the available credits allocated for each fiscal year are encumbered. For fiscal years beginning on or after July 1, 2000, $2.4 million shall be appropriated for historic preservation and cultural and entertainment district tax credits for each year. For the fiscal years beginning July 1, 2005, and July 1, 2006, an additional $4 million of tax credits is appropriated for projects located in cultural and entertainment districts which are certified by the department of cultural affairs. If less than $4 million of tax credits is appropriated during a fiscal year, the remaining amount shall be applied to reserved tax credits for projects not located in cultural and entertainment districts in the order of original reservation by the department of cultural affairs. For the fiscal year beginning July 1, 2007, $10 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2008, $15 million in historic preservation and cultural and entertainment district tax credits is available. For the fiscal year beginning July 1, 2009, and for subsequent fiscal years, ~~$20~~ $50 million in historic preservation and cultural and entertainment district tax credits is available. The allocation of the $50 million of credits for fiscal years beginning on or after July 1, 2009, is set forth in rule 223—48.7(303,404A). Tax credits shall not be reserved by the department of cultural affairs for more than three years except for tax credits issued for contracts entered into prior to July 1, 2007.

b. For the state fiscal year beginning on July 1, 2009, $20 million of the credits may be claimed on tax returns beginning on or after January 1, 2009, and $30 million of the credits may be claimed on tax returns beginning on or after January 1, 2010. For the state fiscal year beginning July 1, 2010, $20 million of the credits may be claimed on tax returns beginning on or after January 1, 2010, and $30 million of the credits may be claimed on tax returns beginning on or after January 1, 2011. For the state fiscal year beginning July 1, 2011, $20 million of the credits may be claimed on tax returns beginning on or after January 1, 2011, and $30 million of the credits may be claimed on tax returns beginning on or after January 1, 2012.

c. Applicants for the historic preservation and cultural and entertainment district tax credit must include all information and documentation requested on the application forms for the credit in order for the applications to be processed.

d. The state historic preservation office (SHPO) is to establish selection criteria and standards for rehabilitation projects involving eligible property. The approval process is not to exceed 90 days from the date the application is received by SHPO. To the extent possible, the standards used by SHPO are to be consistent with the standards of the United States Secretary of the Interior for rehabilitation of

eligible property ~~that is listed on the National Register of Historic Places or is designated as of historic significance to a district listed in the National Register of Historic Places~~.

~~The selection standards are to provide that a taxpayer who qualifies for the rehabilitation investment credit under Section 47 of the Internal Revenue Code shall automatically qualify for the state historic preservation and cultural and entertainment district tax credit to the extent that all the historic preservation and cultural and entertainment district tax credits appropriated for the fiscal year have not already been awarded.~~

e. Once SHPO approves a particular historic preservation and cultural and entertainment district tax credit project application, the office will encumber an estimated historic preservation and cultural and entertainment district tax credit under the name of the applicant(s) for the year the project is approved.

ITEM 18. Amend subrule **52.18(3)**, third unnumbered paragraph, as follows:

For example, the basis of a commercial building in a historic district was $500,000, excluding the value of the land, before the rehabilitation project. During a project to rehabilitate this building, $600,000 in rehabilitation costs were expended to complete the project and $500,000 of those rehabilitation costs were qualified rehabilitation costs which were eligible for the historic preservation and cultural and entertainment district tax credit of $125,000. Therefore, the basis of the building for Iowa income tax purposes was $975,000, since the qualified rehabilitation costs of $125,000, which are equal to the amount of the historic preservation and cultural and entertainment district tax credit for the tax year, are not added to the basis of the rehabilitated property. The basis of the building for federal income tax purposes was $1,100,000. However, for tax years beginning only in the 2000 calendar year, the basis of the rehabilitated property would have been $600,000, since for those tax periods any qualified rehabilitation costs used to compute the historic preservation and cultural and entertainment district tax credit for the tax year could not be added to the basis of the property. It should be noted that this example does not consider any possible reduced basis for the building for federal income tax purposes due to the rehabilitation investment credit provided in Section 47 of the Internal Revenue Code. If the building in this example were eligible for the federal rehabilitation credit provided in Section 47 of the Internal Revenue Code, the basis of the building for Iowa tax purposes would ~~not be affected by the federal credit~~ be reduced accordingly by the same amount as the reduction required for federal tax purposes.

ITEM 19. Amend subrule 52.18(4), introductory paragraph, as follows:

52.18(4) *Completion of the historic preservation and cultural and entertainment district project and claiming the historic preservation and cultural and entertainment district tax credit on the Iowa return.* After the taxpayer completes an authorized rehabilitation project, the taxpayer must get a certificate of completion of the project from the state historic preservation office of the department of cultural affairs. After verifying the taxpayer's eligibility for the historic preservation and cultural and entertainment district tax credit, the state historic preservation office~~, in consultation with the Iowa department of economic development,~~ shall issue a historic preservation and cultural and entertainment district tax credit certificate, which shall be attached to the taxpayer's income tax return for the tax year in which the rehabilitation project is completed or the year the credit was reserved, whichever is the later. For example, if a project was completed in 2008 and the credit was reserved for the state fiscal year ending June 30, 2010, the credit can be claimed on the 2009 calendar year return that is due on April 30, 2010. The tax credit certificate is to include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the address or location of the rehabilitation project, the date the project was completed, the year the tax credit was reserved, and the amount of the historic preservation and cultural and entertainment district tax credit. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 52.18(6). In addition, if the taxpayer is a partnership, limited liability company, estate or trust, where the tax credit is allocated to the owners or beneficiaries of the entity, a list of the owners or beneficiaries and the amount of credit allocated to each owner or beneficiary should be provided with the certificate. The tax credit certificate should be attached to the income tax return for the period in which the project was completed. If the amount of the historic preservation and cultural and entertainment district tax credit exceeds the taxpayer's income tax liability for the tax year

for which the credit applies, the taxpayer is entitled to a refund of the excess portion of the credit at a discounted value for tax periods ending prior to July 1, 2007. However, the refund cannot exceed 75 percent of the allowable tax credit. The refund of the tax credit is to be computed on the basis of the following table:

ITEM 20. Amend subrule 52.18(6), introductory paragraph, as follows:

52.18(6) *Transfer of the historic preservation and cultural and entertainment district tax credit.* For tax periods beginning on or after January 1, 2003, the historic preservation and cultural and entertainment district tax credit certificates may be transferred to any person or entity. A tax credit certificate of less than $1,000 shall not be transferable.

ITEM 21. Amend rule **701—52.18(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code chapter 404A as amended by 2009 Iowa Acts, Senate File 481, and Iowa Code section 422.33 ~~as amended by 2007 Iowa Acts, Senate File 566~~.

ITEM 22. Amend rule 701—52.23(15E) as follows:

701—52.23(15E) Endow Iowa tax credit. Effective for tax years beginning on or after January 1, 2003, a taxpayer who makes an endowment gift to an endow Iowa qualified community foundation may qualify for an endow Iowa tax credit, subject to the availability of the credit. ~~The~~ For tax years beginning on or after January 1, 2003, but before January 1, 2010, the credit is equal to 20 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, the credit is equal to 25 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, a taxpayer cannot claim a deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes. The administrative rules for the endow Iowa tax credit for the Iowa department of economic development may be found under 261—Chapter 47.

The total amount of endow Iowa tax credits available is $2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is $2 million annually for the 2005-2007 calendar years, and $200,000 of these tax credits on an annual basis is reserved for endowment gifts of $30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed $100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and ~~subsequent~~ 2009 calendar years is $2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 and subsequent calendar years is $3 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. The endow Iowa tax credit cannot be transferred to any other taxpayer.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code ~~Supplement~~ section 15E.305 as amended by ~~2006~~ 2009 Iowa Acts, ~~chapter 1151~~ Senate File 478, and Iowa Code section 422.33.

ITEM 23. Amend subrule 52.26(1) as follows:

52.26(1) *Application and review process for the wind energy production tax credit.* An owner of a wind energy production facility must be approved by the Iowa utilities board in order to qualify for the wind energy production tax credit. The facility must be an electrical production facility that produces electricity from wind, is located in Iowa, and must be placed in service on or after July 1, 2005, but

before July 1, 2012. For applications filed on or after March 1, 2008, a facility must consist of one or more wind turbines which have a combined nameplate generating capacity of at least ~~two~~ 2 megawatts and no more than 30 megawatts. For applications filed on or after July 1, 2009, by a private college or university, community college, institution under the control of the state board of regents, public or accredited nonpublic elementary and secondary school, or public hospital as defined in Iowa Code section 249J.3, the facility must have a combined nameplate capacity of no less than ¾ of a megawatt. ~~In addition, the facility must also be approved by the board of supervisors of the county in which the facility is located. Once the owner receives the approval from the board of supervisors, approval is not required for subsequent tax periods.~~

~~The wind energy production tax credit cannot be allowed for a facility for which the owner has claimed an exemption from property tax under Iowa Code section 427B.26 or 441.21(8) or claimed an exemption from sales tax under Iowa Code section 423.3(54). The facility will be subject to the assessment of property tax in accordance with rule 701—80.13(427B).~~

The maximum amount of nameplate generating capacity for all qualified wind energy production facilities cannot exceed ~~450~~ 150 megawatts of nameplate generating capacity. An owner shall not own more than two qualified facilities. A facility that is not operational within 18 months after issuance of the approval from the Iowa utilities board will no longer be considered a qualified facility. However, a facility that is not operational within 18 months due to the unavailability of necessary equipment shall be granted an additional 12 months to become operational.

An owner of the qualified facility must apply to the Iowa utilities board for the wind energy production tax credit. The application for the tax credit must be filed no later than 30 days after the close of the tax year for which the credit is applied. The information to be included in the application is set forth in 199—subrule 15.20(1).

ITEM 24. Amend subrule **52.26(2)**, second unnumbered paragraph, as follows:

The utilities board will notify the department of the number of kilowatt-hours of electricity sold by the qualified facility or generated and used on site by the qualified facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the owner. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 52.26(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The department will not issue a tax credit certificate if the facility is not operational within 18 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 52.26(1).

ITEM 25. Amend rule **701—52.26(422,476B)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 and chapter 476B as amended by ~~2008~~ 2009 Iowa Acts, Senate File ~~2405~~ 456.

ITEM 26. Amend subrule **52.27(1)**, first unnumbered paragraph, as follows:

The maximum amount of nameplate generating capacity of all wind energy conversion facilities cannot exceed ~~180~~ 330 megawatts of nameplate generating capacity. The maximum amount of energy production capacity for biogas recovery facilities, biomass conversion facilities, methane gas recovery facilities, solar energy conversion facilities and refuse conversion facilities cannot exceed a combined output of 20 megawatts of nameplate generating capacity and 167 billion British thermal units of heat for a commercial purpose. A facility that is not operational within 30 months after issuance of approval from the utilities board will no longer be considered a qualified facility. However, if the facility is a wind energy conversion property and is not operational within 18 months due to the unavailability of necessary equipment, the facility may apply for a 12-month extension of the 30-month limit. A producer of renewable energy, which is the person who owns the renewable energy facility, cannot own more than two eligible renewable energy facilities. A person that has an equity interest equal to or greater than 51

percent in an eligible renewable energy facility cannot have an equity interest greater than 10 percent in any other renewable energy facility.

ITEM 27. Amend subrule **52.27(2)**, second unnumbered paragraph, as follows:

The utilities board will notify the department of the number of kilowatt-hours, standard cubic feet or British thermal units that are generated and purchased from an eligible facility during the tax year. The department will calculate the credit and issue a tax credit certificate to the purchaser or producer. The tax credit certificate will include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit and the tax year for which the credit may be claimed. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit certificate, as provided in subrule 52.27(3). If the department refuses to issue the tax credit certificate, the taxpayer shall be notified in writing and the taxpayer will have 60 days from the date of denial to file a protest in accordance with rule 701—7.41(17A). The department will not issue a tax credit certificate if the facility is not operational within 30 months after approval was given by the utilities board, unless a 12-month extension is granted by the utilities board as provided in subrule 52.27(1). In addition, the department will not issue a tax credit certificate to any person who received a wind energy production tax credit in accordance with Iowa Code chapter 476B.

ITEM 28. Amend rule **701—52.27(422,476C)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.33 and chapter 476C as amended by 2009 Iowa Acts, Senate File 456.

ITEM 29. Amend rule 701—52.28(15), introductory paragraph, as follows:

701—52.28(15) High quality job creation program. Effective for tax periods ending on or after July 1, 2005, for programs approved on or after July 1, 2005, but before July 1, 2009, a business which qualifies under the high quality job creation program is eligible to receive tax credits. The high quality job creation program replaces the new jobs and income program and the new capital investment program. An eligible business under the high quality job creation program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code ~~Supplement~~ section 15.329. The administrative rules for the high quality job creation program for the Iowa department of economic development may be found at 261—Chapter 68.

The high quality job creation program was repealed on July 1, 2009, and has been replaced with the high quality jobs program. See rule 701—52.40(15) for information on the investment tax credit and additional research activities credit under the high quality jobs program. Any investment tax credit and additional research activities credit earned by businesses approved under the high quality job creation program prior to July 1, 2009, remains valid and can be claimed on tax returns filed after July 1, 2009.

ITEM 30. Amend rule **701—52.33(175,422)**, second unnumbered paragraph, as follows:

The Iowa agricultural development authority will issue a tax credit certificate to the owner of agricultural assets which will include the name, address and tax identification number of the owner, the amount of the credit, and the tax period for which the credit may be applied. To claim the tax credit, the owner must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. For fiscal years beginning on or after July 1, 2009, the amount of tax credit certificates issued by the Iowa agricultural development authority cannot exceed $6 million, and the credit certificates will be issued on a first-come, first-served basis.

ITEM 31. Amend rule **701—52.33(175,422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 175.37 as amended by 2009 Iowa Acts, Senate File 473, and section 422.33.

ITEM 32. Amend rule 701—52.34(15,422), introductory paragraph, as follows:

701—52.34(15,422) Film qualified expenditure tax credit. Effective for tax years beginning on or after January 1, 2007, a film qualified expenditure tax credit is available for corporation income tax. The tax

credit ~~is equal to~~ cannot exceed 25 percent of the taxpayer's qualified expenditures in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The film office may negotiate the amount of the tax credit. The administrative rules for the film qualified expenditure tax credit for IDED may be found at 261—Chapter 36.

ITEM 33. Amend subrule 52.34(1) as follows:

52.34(1) *Qualified expenditures.* A qualified expenditure is a payment to an Iowa resident or an Iowa-based business for the sale, rental or furnishing of tangible personal property or services directly related to the registered project. The qualified expenditures include, but are not limited to, the following:

1. to 12. No change.

13. Labor and personnel~~, excluding the director, producers, or cast members other than extras and stand-ins~~. For limitations on the amount of labor and personnel expenditures, see Iowa department of economic development 261—paragraph 36.7(2)*"b."*

14. to 26. No change.

A detailed list of all qualified expenditures for each of these categories is available ~~on Form Z, Schedule of Qualified Expenses, which is available~~ from the film office of IDED.

ITEM 34. Amend subrule 52.34(2), introductory paragraph, as follows:

52.34(2) *Claiming the tax credit.* Upon completion of the registered project in Iowa, the taxpayer must submit, ~~to the film office a completed Form Z, Schedule of Qualified Expenses, or an alternative to Form Z~~ in a format approved by IDED prior to production, a listing of the qualified expenditures. Upon verification of the qualified expenditures, IDED will issue a tax credit certificate to the taxpayer. The certificate will list the taxpayer's name, address, and tax identification number; the date of project completion; the amount of the credit; the tax period for which the credit may be applied; and the type of tax for which the credit will be applied.

ITEM 35. Amend rule **701—52.34(15,422)**, implementation sentence, as follows:

This rule is intended to implement ~~2007~~ 2009 Iowa Acts, ~~House~~ Senate File ~~892~~ 480, ~~section 3,~~ and Iowa Code section 422.33 ~~as amended by 2007 Iowa Acts, House File 892, section 7~~.

ITEM 36. Amend rule 701—52.35(15,422), introductory paragraph, as follows:

701—52.35(15,422) Film investment tax credit. Effective for tax years beginning on or after January 1, 2007, a film investment tax credit is available for corporation income tax. The tax credit ~~is equal to~~ cannot exceed 25 percent of the taxpayer's investment in a film, television, or video project registered with the film office of the Iowa department of economic development (IDED). The film office may negotiate the amount of the tax credit. The administrative rules for the film investment tax credit for IDED may be found at 261—Chapter 36.

ITEM 37. Amend rule **701—52.35(15,422)**, implementation sentence, as follows:

This rule is intended to implement ~~2007~~ 2009 Iowa Acts, ~~House~~ Senate File ~~892~~ 480, section ~~3~~ 4, and Iowa Code section 422.33 ~~as amended by 2007 Iowa Acts, House File 892, section 7~~.

ITEM 38. Adopt the following **new** rules 701—52.38(422) to 701—52.41(15):

701—52.38(422) School tuition organization tax credit. Effective for tax years beginning on or after July 1, 2009, a school tuition organization tax credit is available which is equal to 65 percent of the amount of the voluntary cash or noncash contribution made by a corporation taxpayer to a school tuition organization. The credit is not available for S corporations, partnerships and limited liability companies where the income is taxed directly to the individual shareholders, partners or members. For information on the initial registration, participation forms and reporting requirements for school tuition organizations, see rule 701—42.30(422).

52.38(1) *Amount of tax credit authorized.* Of the $7.5 million of school tuition organization tax credits authorized for 2009 and subsequent calendar years, no more than 25 percent, or $1,875,000, can be authorized for corporation income tax taxpayers.

52.38(2) *Issuance of tax credit certificates.* The school tuition organization shall issue tax credit certificates to each taxpayer who made a cash or noncash contribution to the school tuition organization. The tax credit certificate will contain the name, address and tax identification number of the taxpayer, the amount and date that the contribution was made, the amount of the credit, the tax year that the credit may be applied, the school tuition organization to which the contribution was made, and the tax credit certificate number.

52.38(3) *Claiming the tax credit.* The taxpayer must attach the tax credit certificate to the tax return for which the credit is claimed. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier. The taxpayer may not claim a deduction for charitable contributions for Iowa corporation income tax purposes for the amount of the contribution made to the school tuition organization.

This rule is intended to implement Iowa Code section 422.33 as amended by 2009 Iowa Acts, Senate File 470.

701—52.39(15,422) Redevelopment tax credit. Effective for tax years beginning on or after July 1, 2009, a taxpayer whose project has been approved by the Iowa brownfield redevelopment advisory council may claim a redevelopment tax credit. The credit is based on the taxpayer's qualifying investment in a brownfield or grayfield site. The administrative rules for a redevelopment project for the brownfield redevelopment authority which qualifies for the tax credit, including definitions of brownfield and grayfield sites, may be found in rules 261—65.11(15) and 261—65.12(15).

52.39(1) *Eligibility for the credit.* The Iowa department of economic development is responsible for developing a system for registration and authorization of redevelopment tax credits. Investments in brownfield or grayfield sites must be made on or after January 1, 2009, but before June 30, 2010, to be eligible for the tax credit. The maximum amount of tax credits that can be issued for redevelopment projects is $1 million in the aggregate, and the amount of credits for any one redevelopment project cannot exceed $100,000.

52.39(2) *Computation and claiming of the credit.*

a. The amount of the tax credit shall equal one of the following:

(1) Twelve percent of the taxpayer's qualifying investment in a grayfield site.

(2) Fifteen percent of the taxpayer's qualifying investment in a grayfield site if the qualifying redevelopment project meets the requirements of green development as defined in rule 261—65.2(15).

(3) Twenty-four percent of the taxpayer's qualifying investment in a brownfield site.

(4) Thirty percent of the taxpayer's qualifying investment in a brownfield site if the qualifying redevelopment project meets the requirements of green development as defined in rule 261—65.2(15).

b. Upon completion of the project, the Iowa department of economic development will issue a tax credit certificate to the taxpayer. The tax credit certificate shall include the taxpayer's name, address and federal identification number, the tax type for which the credit will be claimed, the amount of the credit, the tax year for which the credit may be claimed and the tax credit certificate number. In addition, the tax credit certificate will include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 52.39(3).

c. If a taxpayer claiming the tax credit is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

d. The increase in the basis of the redevelopment property that would otherwise result from the qualified redevelopment costs shall be reduced by the amount of the redevelopment tax credit. For example, if a qualifying investment in a grayfield site totaled $100,000 for which a $12,000 redevelopment tax credit was issued, the increase in the basis of the property would total $88,000 for Iowa tax purposes ($100,000 less $12,000).

e. To claim the tax credit, the taxpayer must attach the tax credit certificate to the tax return for the tax period set forth on the certificate. Any credit in excess of the tax liability for the tax year may

be credited to the tax liability for the following five years or until used, whichever is the earlier. The tax credit shall not be carried back to a tax year prior to the year in which the taxpayer redeems the credit.

52.39(3) *Transfer of the credit.* The redevelopment tax credit can be transferred to any person or entity.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the department of revenue, along with a statement which contains the transferee's name, address and tax identification number and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the department of revenue will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company, S corporation, or estate or trust claiming the credit for individual or corporation income tax, the transferee shall provide a list of the partners, members, shareholders or beneficiaries and information describing how the redevelopment tax credit should be divided among the partners, members, shareholders or beneficiaries. The transferee shall also provide the tax identification numbers and addresses of the partners, members, shareholders or beneficiaries. The replacement tax credit certificate must contain the same information as that on the original tax credit certificate and must have the same effective taxable year as the original tax credit certificate. The replacement tax credit certificate may reflect a different tax type than the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax year for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit certificate shall not be included in Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes. Any consideration paid for the transfer of the tax credit certificate shall not be deducted from Iowa taxable income for individual income tax, corporation income tax, or franchise tax purposes.

This rule is intended to implement Iowa Code section 15.293A.

701—52.40(15) High quality jobs program. Effective for tax periods beginning on or after July 1, 2009, a business which qualifies under the high quality jobs program is eligible to receive tax credits. The high quality jobs program replaces the high quality job creation program. An eligible business under the high quality jobs program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code section 15.329. The tax credits available under the high quality jobs program are based upon the number of jobs created or retained that pay a qualifying wage threshold and the amount of qualifying investment. The administrative rules for the high quality jobs program for the Iowa department of economic development may be found at 261—Chapter 68.

52.40(1) *Research activities credit.* An eligible business approved under the high quality jobs program is eligible for an additional research activities credit as described in subrule 52.7(4).

Research activities allowable for the Iowa research activities credit include expenses related to the development and deployment of innovative renewable energy generation components manufactured or assembled in Iowa; such expenses related to the development and deployment of innovative renewable energy generation components are not eligible for the federal credit for increasing research activities. For purposes of this subrule, innovative renewable energy generation components do not include components with more than 200 megawatts in installed effective nameplate capacity. The research activities credit related to renewable energy generation components under the high quality jobs program and the enterprise zone program shall not exceed $2 million for the fiscal year ending June 30, 2010, and $1 million for the fiscal year ending June 30, 2011.

These expenses related to the development and deployment of innovative renewable energy generation components are applicable only to the additional research activities credit set forth in this subrule and in subrule 52.7(5) for businesses in enterprise zones, and are not applicable to the research activities credit set forth in subrule 52.7(3).

52.40(2) *Investment tax credit.* An eligible business can claim an investment tax credit equal to a percentage of the new investment directly related to new jobs created or retained by the location or expansion of an eligible business. The percentage is equal to the amount provided in Iowa department of economic development 261—subrule 68.4(7).

The determination of the new investment eligible for the investment tax credit, the eligibility of a refundable investment tax credit for value-added agricultural product or biotechnology-related projects and the repayment of investment tax credits for the high quality jobs program is the same as set forth in subrule 52.28(2) for the high quality job creation program.

This rule is intended to implement Iowa Code chapter 15.

701—52.41(15) Aggregate tax credit limit for certain economic development programs. Effective for fiscal years beginning on or after July 1, 2009, awards made under certain economic development programs cannot exceed $185 million during a fiscal year. These programs include the assistive device tax credit program, the enterprise zone program, the housing enterprise zone program, the film, television and video project promotion program, and the high quality jobs program. The administrative rules for the aggregate tax credit limit for the Iowa department of economic development may be found at 261—Chapter 76.

This rule is intended to implement 2009 Iowa Acts, Senate File 483, section 1.

ITEM 39. Amend paragraph **53.2(1)"a"** as follows:

a. Refunds of federal income taxes due to net operating loss and ~~investment~~ credit carrybacks ~~or carryovers~~ shall be reflected in the following manner:

(1) Accrual basis taxpayers shall accrue refunds of federal income taxes to the year in which the net operating loss or excess credit occurs. The federal refund shall still accrue for tax periods beginning on or after January 1, 2009, even though the Iowa net operating loss carryback is not allowed.

(2) Cash basis taxpayers shall reflect refunds of federal income taxes in the return for the year in which the refunds are received. The federal refund due to any net operating loss carryback for federal income tax purposes for tax years beginning on or after January 1, 2009, must still be reflected even though the Iowa net operating loss carryback is not allowed.

ITEM 40. Amend paragraphs **53.2(3)"b"** and **"c"** as follows:

b. The net operating loss attributable to Iowa, as determined in rule 701—53.2(422), shall be subject to a 3-year carryback and a 15-year carryover provision for tax years beginning prior to August 6, 1997. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 15 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa corporation income tax return filed with the department.

c. For tax years beginning after August 5, 1997, but before January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—53.2(422), incurred in a presidentially declared disaster area by a corporation engaged in a small business or in the trade or business of farming must be carried back 3 taxable years and carried forward 20 taxable years. All other net operating losses attributable to Iowa must be carried back 2 taxable years and carried forward 20 taxable years. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 20 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa corporation income tax return filed with the department.

ITEM 41. Amend paragraph **53.2(3)"d,"** introductory paragraph, as follows:

d. For tax years beginning on or after January 1, 1998, but before January 1, 2009, for a taxpayer who is engaged in the trade or business of farming as defined in Section 263A(e)(4) of the Internal Revenue Code and has a loss from farming as defined in Section 172(b)(1)(F) of the Internal Revenue Code including modifications prescribed by rule by the director, the Iowa loss from the trade or business of farming is a net operating loss which may be carried back five taxable years prior to the taxable year of the loss. However, if a taxpayer has a net operating loss from the trade or business of farming for a

taxable year beginning in 1998 or for a taxable year after 1998 and makes a valid election for federal income tax purposes to carry back the net operating loss two years, or three years if the loss was in a presidentially declared disaster area or related to a casualty or theft loss, the net operating loss must be carried back two years or three years for Iowa income tax purposes. A copy of the federal election made under Section 172(i)(3) of the Internal Revenue Code for the two-year or three-year carryback in lieu of the five-year carryback must be attached to the Iowa return or the Form IA 1139 ~~Farm,~~ Application for Refund Due to the Carryback of Corporate Farming Losses, to show why the carryback was two years or three years instead of five years. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa.

ITEM 42. Adopt the following **new** paragraph **53.2(3)"e"**:

e. For tax years beginning on or after January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—53.2(422), shall be carried forward 20 taxable years. The net operating loss cannot be carried back to a previous tax year. The federal refund due to any carryback of a federal net operating loss must still be included in income as provided in subrule 53.2(1), paragraph *"a."*

ITEM 43. Amend rule **701—53.2(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code section 422.35 as amended by ~~1999~~ 2009 Iowa Acts, ~~chapter 95~~ Senate File 483.

ITEM 44. Amend rule 701—53.4(422) as follows:

701—53.4(422) Net operating and capital loss carrybacks and carryovers. If the taxpayer, for tax periods beginning prior to January 1, 2009, has both a net operating loss and a capital loss carryback to a prior tax year, the capital loss shall be carried back first and then the new operating loss offset against any remaining income.

This rule is intended to implement Iowa Code section 422.35 as amended by 2009 Iowa Acts, Senate File 483.

ITEM 45. Amend paragraphs **53.15(8)"b"** and **"c"** as follows:

b. Limitation on net operating loss carryover. A net operating loss from a separate return limitation year of a member of the group may be carried over only to the extent that the member contributed to the Iowa consolidated taxable income as computed under subrule 53.15(7). A net operating loss carryover from a separate return limitation year cannot create or increase a consolidated net operating loss which is carried back for tax years beginning prior to January 1, 2009.

A consolidated net operating loss may be carried over to a consolidated return year without limitation even though in the carryover year the affiliated group contains members which were not members of the group in the loss year.

If a member of the affiliated group in the loss year leaves the group through the sale of its stock or because it is now a corporation exempt from tax under Iowa Code section 422.34, its share, as determined by subrule 53.15(7), of the unabsorbed consolidated net operating loss at the end of the consolidated return year during which the member left the group or became exempt from tax may not be carried forward to a subsequent consolidated return.

c. Limitation on net operating loss carryback for tax periods beginning prior to January 1, 2009. A member's share of an Iowa consolidated net operating loss as computed under subrule 53.15(7) must be carried back to a separate return year, unless the affiliated group elected to carry the net operating loss forward. However, if the member was not in existence in the carryback year but had been a member of the group for every tax year of its existence, its share of the Iowa consolidated loss may be carried back to a separate return year of the common parent.

If a consolidated net operating loss is carried back to a consolidated return year and all members of the affiliated group are the same in the carryback year as in the loss year, the consolidated net operating loss may be carried back without limitation. If there are members of the affiliated group in the loss year which were not members in the carryback year, then the formula in subrule 53.15(7) must be used to determine the portion of the consolidated net operating loss attributable to the members in existence in the carryback year and which may be carried back. Any member of the affiliated group which was

a member of the loss-year affiliated group which has been a member of the group since its formation will be regarded as having been a member of the group in the carryback year even though it was not then in existence. A merger or liquidation of members within the affiliated group will be disregarded in determining whether there has been a change in the group between the loss year and the carryback year.

The amount of net operating loss that may be carried back from a separate return year to a consolidated return year is limited to the extent that the former member contributed to the Iowa consolidated taxable income as computed under subrule 53.15(7).

ITEM 46. Amend rule **701—53.15(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 422.35 as amended by 2009 Iowa Acts, Senate File 483, and section 422.37 ~~as amended by 1992 Iowa Acts, Second Extraordinary Session, Senate File 2393~~.

ITEM 47. Amend subrule **53.22(3)**, introductory paragraph, as follows:

53.22(3) *Assets acquired after December 31, 2007, but before January 1, ~~2009~~ 2010.* For tax periods beginning after December 31, 2007, but beginning before January 1, ~~2009~~ 2010, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law No. 110-185, Section 103, and Public Law 111-5, Section 1201, does not apply for Iowa corporation income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, ~~2009~~ 2010, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

ITEM 48. Amend subrule **53.22(3)**, first and second unnumbered paragraphs, as follows:

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, ~~2009~~ 2010, can be calculated on Form IA 4562A.

ITEM 49. Adopt the following **new** subrule 53.22(4):

53.22(4) *Qualified disaster assistance property.* For property placed in service after December 31, 2007, with respect to federal declared disasters occurring before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(n) of the Internal Revenue Code for qualified disaster assistance property, as amended by Public Law 110-343, Section 710, does not apply for Iowa corporation income tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on qualified disaster assistance property and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(n).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of this property for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of such property.

The adjustment for both depreciation and the gain or loss on the sale of qualifying disaster assistance property can be calculated on Form IA 4562A.

ITEM 50. Amend rule 701—53.25(422) as follows:

701—53.25(422) Exclusion of income from sale, rental or furnishing of tangible personal property or services directly related to production of film, television, or video projects.

53.25(1) *Projects registered on or after January 1, 2007, but before July 1, 2009.* For tax years beginning on or after January 1, 2007, a taxpayer ~~which~~ that is an Iowa-based business may exclude,

to the extent included in federal taxable income, income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development.

Income which can be excluded on the Iowa return must meet the criteria of a qualified expenditure for purposes of the film qualified expenditure tax credit as set forth in rule 701—52.34(15,422). An Iowa-based business is a business whose commercial domicile as defined in Iowa Code section 422.32(3) is in Iowa.

However, if a taxpayer claims this income tax exclusion, the same taxpayer cannot also claim the film qualified expenditure tax credit as described in rule 701—52.34(15,422). In addition, any taxpayer who claims this income tax exclusion cannot have an equity interest in a business which received a film qualified expenditure tax credit. Finally, any taxpayer who claims this income tax exclusion cannot participate in the management of the business which received the film qualified expenditure tax credit.

EXAMPLE: A production company which registers with the film office for a project is a corporation which is domiciled in Iowa. If this same corporation receives income that is a qualified expenditure for purposes of the film qualified expenditure tax credit, the corporation cannot exclude this income on the Iowa corporation income tax return because the corporation has claimed the film qualified expenditure tax credit.

53.25(2) *Projects registered on or after July 1, 2009.* For tax years beginning on or after July 1, 2009, a taxpayer that is an Iowa-based business may exclude no more than 25 percent of the income received from the sale, rental or furnishing of tangible personal property or services directly related to the production of film, television, or video projects that are registered with the film office of the Iowa department of economic development in the year in which the qualified expenditure occurred. A reduction of 25 percent of the income is allowed to be excluded for the three subsequent tax years.

EXAMPLE: An Iowa taxpayer received $10,000 in income in the 2010 tax year related to qualified film expenditures for a project registered on February 1, 2010. The $10,000 was reported as income on taxpayer's 2010 federal tax return. Taxpayer may exclude $2,500 of income on the Iowa corporation income tax return for each of the tax years 2010-2013.

This rule is intended to implement Iowa Code section ~~422.35~~ 15.393 as amended by ~~2007~~ 2009 Iowa Acts, ~~House~~ Senate File ~~892~~ 480, section ~~8~~ 5, and section 422.35.

ITEM 51. Amend rule 701—58.13(15E) as follows:

701—58.13(15E) Endow Iowa tax credit. Effective for tax years beginning on or after January 1, 2003, a taxpayer who makes an endowment gift to an endow Iowa qualified community foundation may qualify for an endow Iowa tax credit, subject to the availability of the credit. ~~The~~ For tax years beginning on or after January 1, 2003, but before January 1, 2010, the credit is equal to 20 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, the credit is equal to 25 percent of a taxpayer's endowment gift to an endow Iowa qualified community foundation approved by the Iowa department of economic development. For tax years beginning on or after January 1, 2010, a taxpayer cannot claim a deduction for charitable contributions under Section 170 of the Internal Revenue Code for the amount of the contribution for which the tax credit is claimed for Iowa tax purposes. The administrative rules for the endow Iowa tax credit for the Iowa department of economic development may be found under 261—Chapter 47.

The total amount of endow Iowa tax credits available is $2 million in the aggregate for the 2003 and 2004 calendar years. The total amount of endow Iowa tax credits is $2 million annually for the 2005-2007 calendar years, and $200,000 of these tax credits on an annual basis is reserved for endowment gifts of $30,000 or less. The maximum amount of tax credit granted to a single taxpayer shall not exceed $100,000 for the 2003-2007 calendar years. The total amount of endow Iowa tax credits annually for the 2008 and ~~subsequent~~ 2009 calendar years is $2 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with Iowa Code section 99F.11(3). The total amount of endow Iowa tax credits annually for 2010 and subsequent calendar years is $3 million plus a percentage of the tax imposed on the adjusted gross receipts from gambling games in accordance with

Iowa Code section 99F.11(3). The maximum amount of tax credit granted to a single taxpayer shall not exceed 5 percent of the total endow Iowa tax credit amount authorized for 2008 and subsequent years. The endow Iowa tax credit cannot be transferred to any other taxpayer.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code ~~Supplement~~ section 15E.305 as amended by ~~2006~~ 2009 Iowa Acts, ~~chapter 1151~~ Senate File 478, and Iowa Code section 422.60.

ITEM 52. Amend rule 701—58.17(15), introductory paragraph, as follows:

701—58.17(15) High quality job creation program. Effective for tax periods ending on or after July 1, 2005, for programs approved on or after July 1, 2005, but before July 1, 2009, a business which qualifies under the high quality job creation program is eligible to receive tax credits. The high quality job creation program replaces the new jobs and income program and the new capital investment program. An eligible business under the high quality job creation program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code ~~Supplement~~ section 15.329. ~~The administrative rules for the high quality job creation program for the Iowa department of economic development may be found at 261—Chapter 68.~~

The high quality job creation program was repealed on July 1, 2009, and has been replaced with the high quality jobs program. See rule 701—52.40(15) for information on the investment tax credit under the high quality jobs program. Any investment tax credit earned by businesses approved under the high quality job creation program prior to July 1, 2009, remains valid, and can be claimed on tax returns filed after July 1, 2009. The administrative rules for the high quality jobs program for the Iowa department of economic development may be found at 261—Chapter 68.

ITEM 53. Adopt the following **new** rule 701—58.21(15):

701—58.21(15) High quality jobs program. Effective for tax periods beginning on or after July 1, 2009, a business which qualifies under the high quality jobs program is eligible to receive tax credits. The high quality jobs program replaces the high quality job creation program. An eligible business under the high quality jobs program must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code section 15.329. The tax credits available under the high quality jobs program are based upon the number of jobs created or retained that pay a qualifying wage threshold and the amount of qualifying investment. The administrative rules for the high quality jobs program for the Iowa department of economic development may be found at 261—Chapter 68.

For information on the credits that may be taken under this program, how the investment tax credit is computed and other details about the program, see rule 701—52.40(15). However, the research credit described in subrule 52.40(1) is not available for franchise tax filers.

This rule is intended to implement Iowa Code chapter 15.

ITEM 54. Amend paragraphs **59.2(3)"b"** and **"c"** as follows:

b. The net operating loss attributable to Iowa, as determined in rule 701—59.2(422), shall be subject to a 3-year carryback and a 15-year carryover provision for tax years beginning before August 6, 1997. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 15 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa corporation income tax return filed with the department.

c. For tax years beginning after August 5, 1997, but before January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—59.2(422), incurred in a presidentially declared disaster area by a corporation engaged in a small business or in the trade or business of farming must be carried back 3 taxable years and carried forward 20 taxable years. All other net operating losses attributable to Iowa must be carried back 2 taxable years and carried forward 20 taxable years. This loss shall be carried back or over to the applicable year as a reduction or part of a reduction of the net income attributable to Iowa for that year. However, an Iowa net operating loss shall not be carried back to a year in which the taxpayer was not doing business in Iowa. If the election under Section 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward 20 taxable years. A copy of the federal election made under Section 172(b)(3) of the Internal Revenue Code must be attached to the Iowa franchise tax return filed with the department.

ITEM 55. Adopt the following **new** paragraph **59.2(3)"d"**:

d. For tax years beginning on or after January 1, 2009, a net operating loss attributable to Iowa, as determined in rule 701—59.2(422), shall be carried forward 20 taxable years. The net operating loss cannot be carried back to a previous tax year.

ITEM 56. Amend rule **701—59.2(422)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code ~~sections~~ section 422.35 as amended by ~~1998~~ 2009 Iowa Acts, Senate File ~~2357~~ 483, and sections 422.61~~,~~ and 422.63.

ITEM 57. Amend rule 701—59.4(422) as follows:

701—59.4(422) Net operating and capital loss carrybacks and carryovers. If the taxpayer, for tax periods beginning before January 1, 2009, has both a net operating loss and a capital loss carryback to a prior tax year, the capital loss shall be carried back first and then the net operating loss offset against any remaining income.

This rule is intended to implement Iowa Code ~~sections~~ section 422.35 as amended by 2009 Iowa Acts, Senate File 483, and section 422.61.

ITEM 58. Adopt the following **new** subrules 59.23(3) and 59.23(4):

59.23(3) *Assets acquired after December 31, 2007, but before January 1, 2010.* For tax periods beginning after December 31, 2007, but beginning before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(k) of the Internal Revenue Code, as amended by Public Law 110-185, Section 103, and Public Law 111-5, Section 1201, does not apply for Iowa franchise tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on assets acquired after December 31, 2007, but before January 1, 2010, and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system (MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(k).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of these assets for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of assets.

The adjustment for both depreciation and the gain or loss on the sale of qualifying assets acquired after December 31, 2007, but before January 1, 2010, can be calculated on Form IA 4562A.

See rule 701—53.22(422) for examples illustrating how this rule is applied.

59.23(4) *Qualified disaster assistance property.* For property placed in service after December 31, 2007, with respect to federal declared disasters occurring before January 1, 2010, the bonus depreciation of 50 percent authorized in Section 168(n) of the Internal Revenue Code for qualified disaster assistance property, as amended by Public Law 110-343, Section 710, does not apply for Iowa franchise tax. Taxpayers who claim the bonus depreciation on their federal income tax return must add the total amount of depreciation claimed on qualified disaster assistance property and subtract the amount of depreciation taken on such property using the modified accelerated cost recovery system

(MACRS) depreciation method applicable under Section 168 of the Internal Revenue Code without regard to Section 168(n).

If any such property was sold or disposed of during the tax year, the applicable depreciation catch-up adjustment must be made to adjust the basis of the property for Iowa tax purposes. The gain or loss reported on the sale or disposition of this property for federal tax purposes must be adjusted for Iowa tax purposes to account for the adjusted basis of such property.

The adjustment for both depreciation and the gain or loss on the sale of qualifying disaster assistance property can be calculated on Form IA 4562A.